

Senate Community Affairs Legislation Committee
Inquiry into Welfare Reform and Reinstatement of the Racial Discrimination Act
Canberra Hearing, Thursday 4 February 2010

ANSWERS TO QUESTIONS ON NOTICE

Question No: WR4

Topic: List of disallowable instruments

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Senator Siewert asked:

In terms of applying the decision-making principles for who is a vulnerable person, are the decision-making principles in a disallowable instrument?

In response **Mr Sandison** offered to provide the expected list of disallowable instruments that relate to the legislation.

Answer:

Please see attached table.

DRAFT FAHCSIA WORKING DOCUMENT

Outline of legislative instruments under Schedule 2 of the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009

	Provision of Bill (item in Schedule 2)	Proposed new Act provision	Purpose	Rule-maker	Implementation
Declared income management areas	Item 35	s 123TFA <i>Social Security (Administration) Act 1999</i>	To specify that a State, Territory or area is a 'declared income management area', for the purposes of the following new IM measures: i) the vulnerable welfare payment recipients measure; ii) the disengaged youth measure; iii) the long-term welfare payment recipients measure.	Minister	Under the new measures mentioned in column 4, a person will only be subject to income management if, amongst other things, the person's 'usual place of residence' is in a 'declared income management area'.
Vulnerable welfare payment recipients measure	Item 37	ss 123UGA(2) <i>Social Security (Administration) Act 1999</i>	For the purposes of the vulnerable welfare payment recipients measure — to set out decision-making principles that a decision-maker must comply with: i) in determining whether or not a person is a 'vulnerable welfare payment recipient'; and ii) in deciding whether to vary or revoke a determination that a person is a 'vulnerable welfare payment recipient'.	Minister	Under this instrument, the decision-maker will need to consider whether the welfare payment recipient is experiencing one or more of the following indicators of vulnerability: <ul style="list-style-type: none"> • Financial hardship. For the purposes of this instrument, an individual is defined as experiencing financial hardship where they are unable to access or engage in activities that meet their priority needs due to a lack of financial resources. For the purposes of income management, priority needs are those defined in Section 123TH of the <i>Social Security (Administration) Act 1999</i>. • Domestic and family violence, as defined in Section 1.1.D.235 of the Guide to the Social Security Act. • Financial exploitation: Where an individual is subject to harassment or abuse for resources by another individual and/or individuals. This also includes people subject to unauthorised debt practices by stores, businesses or sole traders, including, but not limited to, unlicensed credit providers or collectors. • Failure to undertake reasonable self-care. This may be due to factors including, but not exclusive to, substance abuse issues, problem gambling, mental health issues, and homelessness. <p>The decision-maker will also be required to consider whether the individual is, or has been, unable to meet their priority needs, or the priority needs of their dependants, and whether the indicator of vulnerability is of a type that could be assisted by income management.</p>
Exempt welfare payment recipients – class exemptions under disengaged youth and long-term welfare payment recipient measures	Item 37	ss 123UGB(2) <i>Social Security (Administration) Act 1999</i>	For the purposes of the disengaged youth and long-term welfare payment recipients measures — to specify a class of persons that are 'exempt welfare payment recipients'	Minister	To be used to exempt certain classes of people not intended to be in scope for income management. For example, Special Benefit recipients would be exempt if they meet the following criteria: <ul style="list-style-type: none"> • do not have an activity tested Special Benefit payment; and • are 16 years of age or over; and • are not the principal carer of a child under 6 years of age.

Exempt welfare payment recipients – undertaking a specified activity	Item 37	ss 123UGC(2) <i>Social Security (Administration) Act 1999</i>	For the purposes of the disengaged youth and long-term welfare payment recipients measures — to specify activities that a person may participate in. (Ss 123UGC(1) provides that, in certain circumstances, the Secretary may determine that a person is an ‘exempt welfare payment recipient’ if the person is undertaking an activity specified in this instrument.)	Minister	Under development
Parental exemptions – school age children	Item 37	ss 123UGD(2) <i>Social Security (Administration) Act 1999</i>	For the purposes of the disengaged youth and long-term welfare payment recipient measures — to specify activities that a school age child may participate in. These activities are relevant to whether a person who has one or more dependent school age children is an ‘exempt welfare payment recipient’. (Ss 123UGD(1) provides that, in certain circumstances, the Secretary may determine that a person is an ‘exempt welfare payment recipient’ if, amongst other things, the person’s dependant school age child or children are participating in an activity specified in this instrument.)	Minister	In cases where a child is of school age, but is not enrolled in school, parents may be granted an exemption if they can demonstrate that the child is participating in an activity outlined in the instrument, such as: <ul style="list-style-type: none"> • participation in alternative activities to regular schooling, such as youth at risk activities, as set out in a foster care plan or a case management place and authorised as appropriate; or • participation in required medical treatment or therapy, as certified by a health care professional.
Parental exemptions – children under school age	Item 37	ss 123UGD(3) <i>Social Security (Administration) Act 1999</i>	For the purposes of the disengaged youth and long-term welfare payment recipient measures — to specify the number and type of activities that a person who has one or more dependent children who are not school age children, or those children, may participate in: these activities are relevant to whether such a person is an ‘exempt welfare payment recipient’. (Ss 123UGD(1) provides that, in certain circumstances, the Secretary may determine that a person is an ‘exempt welfare payment recipient’ if the person, or their children, are participating in the number and type of activities specified in this instrument.)	Minister	Activities for parents with children under compulsory school age would include the following: Group 1: HEALTH: <ul style="list-style-type: none"> • age appropriate level of immunisation or registration of conscientious objection; • regular child health checks including visits to health clinics, maternal and child health services, GPs, specialists, etc (at least one per year); • participation in a program of speech therapy, occupational therapy or other approved therapy, as evidence by documentation from an allied health professional (participation in this case means reasonable participation as assessed by the allied health professional). Group 2: ENGAGEMENT <ul style="list-style-type: none"> • child is regularly participating in one of the following forms of care: <ul style="list-style-type: none"> ○ Long Day Care ○ Family Day Care ○ Budget Based Funded service ○ Playgroup (Preferably facilitated) ○ Pre-school, Kindergarten, Prep ○ In Home Care by approved carer ○ Crèche • child is enrolled in, and regularly attending, school (this is intended to cover children who are still under compulsory school age, but are enrolled in / attending school); • parent is regularly participating in a parenting education and support program, a nutrition course, a money management course or a life skills course. A parent could be required to participate in one or more of these activities, depending on their circumstances.
Parental exemptions – financial vulnerability	Item 37	ss 123UGD(5) <i>Social Security (Administration) Act 1999</i>	For the purposes of disengaged youth and long-term welfare payment recipients measures — to set out decision-making principles that a decision-maker must	Minister	The principles for determining that there were no indications of financial vulnerability in relation to a person during the previous 12 months are: <ul style="list-style-type: none"> • a person and their family’s priority needs were being met;

			<p>comply with in deciding whether he or she is satisfied that there were no indications of financial vulnerability in relation to the a person during the preceding 12-month period.</p> <p>(Under ss 123UGD(1), the Secretary may only determine that a person is an 'exempt welfare payment recipient' at a particular time if the Secretary is satisfied that there were no indications of financial vulnerability in relation to the person as described in this item.)</p>	<ul style="list-style-type: none"> • a person had stable payment patterns meeting priority needs from their income support and family assistance payments; • a person had control over their money and is not subject to financial exploitation; • a person did not regularly require urgent funds to pay for foreseeable costs or frequently changed their income support pay dates due to financial vulnerability.
Vulnerable welfare payment recipients measure – deductible portion (Baby Bonus - instalment)	Item 42	ss 123XJA(3)(b) <i>Social Security (Administration) Act 1999</i>	<p>Note: these instruments are not being developed at this stage. The <i>Social Security (Administration) Act 1999</i> specifies percentages that apply in the absence of an instrument.</p>	
Vulnerable welfare payment recipients measure – deductible portion (category I payments other than baby bonus - instalment)	Item 42	ss 123XJA(4)(b) <i>Social Security (Administration) Act 1999</i>		
Vulnerable welfare payment recipients measure – deductible portion (category I payment – lump sum)	Item 42	ss 123XJB(3)(b) <i>Social Security (Administration) Act 1999</i>		
Disengaged youth and long-term welfare	Item 42	ss 123XJC(3)(b) <i>Social Security (Administration)</i>		

payment recipients measure – deductible portion (Baby Bonus – instalment)		<i>Act 1999</i>			
Disengaged youth and long-term welfare payment recipients measure – deductible portion (category I payment other than baby bonus – instalment)	Item 42	ss 123XJC(4)(b) <i>Social Security (Administration) Act 1999</i>			
Disengaged youth and long-term welfare payment recipients measure – deductible portion (category I payment – lump sum)	Item 42	ss 123XJD(3)(b) <i>Social Security (Administration) Act 1999</i>			
Matched Savings Scheme (Income Management) Payment – approved courses	Item 61	ss 1061WG(2) <i>Social Security Act 1991</i>	For the purposes of the matched savings scheme (income management) payment — to approve a course that a person may complete in order to qualify for this payment. (Ss 1061WG(1) provides that a person is qualified for a matched savings scheme (income management) payment if, amongst other things, the person has completed a course approved by the Secretary.)	Secretary	This information is under development.
Matched Savings Scheme (Income Management) Payment – regular savings	Item 61	ss 1061WG(3)	For the purposes of the matched savings scheme (income management) payment — to set out decision-making principles that the decision-maker must comply with in deciding whether he or she is satisfied that the person has maintained a ‘pattern of	Minister	The principles outlined below are intended as considerations that a decision-maker must have regard to in determining whether a person has met the savings pattern requirements for payment of the Matched Savings Payment and has a qualifying savings amount. Considerations

<p>pattern and qualifying savings amount</p>			<p>regular savings' and has a 'qualifying savings amount'.</p>		<ul style="list-style-type: none"> • The Act provides that the minimum period for a qualifying savings period is 13 weeks. • The customer will be required to provide evidence of their savings in the form of a formal financial institution document (e.g. bank statement, pass book statement). • The customer may have a dedicated savings account or use an existing account. <p>Customers with savings under \$100 will be encouraged to save for a longer period in order to gain more matched savings.</p> <p>Period of savings</p> <ul style="list-style-type: none"> • The customer must inform Centrelink of the start and end date of their savings period. The CSA will determine if the savings period specified by the customer is at least 13 weeks. • There is no maximum length of the qualifying savings period. <p>Savings Amount</p> <ul style="list-style-type: none"> • Centrelink will determine if the customer's saving amount at the end of the qualifying savings period is greater than the customer's savings amount at the beginning of the qualifying savings period. • There is no maximum number of savings deposits. • There is no maximum increase in a customer's balance (savings will only be matched to \$500). • The final 6 weeks of savings may not constitute more than 50% of the customer's total qualifying savings amount. <p>Interest and Bank Charges</p> <ul style="list-style-type: none"> • Regular or bonus interest accrued from an account are included in determining the customer's savings amount. • Bank fees and charges are included in determining the customer's savings amount. <p>Withdrawals</p> <ul style="list-style-type: none"> • There are no restrictions on the number of withdrawals a customer can make.
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